

TITLE 326 AIR POLLUTION CONTROL BOARD

#01-375(APCB)

SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD

The Indiana Department of Environmental Management (IDEM) requested public comment from November 1, 2001, through December 3, 2001, on IDEM's draft rule language. IDEM received comments from the following parties:

Eli Lilly and Company	(EL)
GE Plastics Mt. Vernon, Inc.	(GE)
Homecrest Cabinetry	(HC)
Hoven Funeral Home	(HV)

Following is a summary of the comments received and IDEM's responses thereto.

Closure date

Comment: The District of Columbia Circuit Court vacated the early cessation provision of the Hazardous Waste Combustor maximum achievable control technology regulation. IDEM should not limit the closure date to one year after the effective date of the state rule. The early cessation requirement appears to be arbitrary and capricious. (EL)

Response: The emission guidelines require the state rule to achieve final compliance as expeditiously as practicable after U.S. EPA approval of the state rule. Some commercial and industrial solid waste incinerators (CISWI) will be able to send their waste off-site to a landfill and thus do not need the extended time to close. Air curtain incinerators also will not need extended time to come into compliance, since their main requirement is an annual opacity test. Therefore, IDEM does not consider an early closure date to be arbitrary, since there is an environmental benefit. However, IDEM is aware that for some sources, one (1) year after the effective date of the state rule may not allow enough time for closing the unit. We have modified the state rule to allow for extended closure dates when the source can show that it is necessary.

Comment: Since the rule was presented as the adoption of a federal requirement without change, and IDEM changed the compliance date from the model, the Commissioner should not have dispensed with the first public comment period and the rule should be subject to additional comments. (EL)

Response: IDEM considers this rulemaking to have limited policy options. This comment period and subsequent comment periods provide sufficient opportunity for the public to comment on the one area

that IDEM has changed, the compliance date. The findings prepared under IC 13-14-9-7 mention IDEM's discretion with respect to the compliance date.

Comment: CISWI units should not be compared to medical waste incinerators for the allowed closure date because CISWI units do not have the same alternative options. (EL)

Response: IDEM agrees, CISWI units will not have the same alternative on-site waste disposal options as medical waste incinerators. However, some CISWI units will have the option of sending waste to a landfill whereas medical waste incinerators cannot send their waste to a landfill.

General

Comment: For companies that own and operate multiple sites in Indiana, IDEM should explicitly state in the rule that a final control plan may encompass a strategy that deals with multiple plant sites collectively. (EL)

Response: IDEM did add this language to the rule, since IDEM has modified the state rule to include an extended compliance date for sources closing the incinerator. The extended compliance date for closure will allow for a strategy that deals with multiple plant sites collectively.

Comment: We support incorporating the federal rule without additional requirements, as IDEM has proposed. (GE)

Response: IDEM appreciates the commenter's support.

Comment: IDEM should use the term "incineration unit" instead of "incinerator" to maintain consistency with the federal rule. A reference to the federal rule for definition of CISWI unit should be added to applicability section. A reference to subpart Cb should be added to 326 IAC 11-8-1(b). Units listed in 326 IAC 11-8-1 (b)(9) and (b)(10) should include a reference to the definition in 40 CFR 60.2875, 65 FR 75338. We suggest that all 14 types of incineration units that are exempt from this rule use the same paragraph structure. The reference to the Federal Power Act should be changed to match the federal rule. In paragraph (b)(11), the reference to "40 CFR 60 " should be changed to "40 CFR 63 ". In sections 11-8-2(a)(13) and 11-8-2(c), insert "subpart" before "DDDD". (GE)

Response: IDEM agrees and the draft rule for preliminary adoption reflects the commenter's suggestions.

Comment: The phrase "(i.e., black liquor)" should be added to match the federal rule language. (GE)

Response: Indiana rules must be written in a style approved by the Indiana Legislative Service

Agency. This means that language in Indiana rules will not always match federal style.

Comment: The phrase “both of” should be inserted in paragraphs (b)(1), (b)(2), and (b)(3)(B) to clarify that both actions must be taken to meet the exemption requirement. (GE)

Response: Style as approved by the Indiana Legislative Service Agency requires the phrase “all of”. IDEM has inserted “all of ” in paragraphs (b)(1), (b)(2) and (b)(3)(B). This clarifies , as suggested by the commenter, that both actions must be taken to meet the exemption requirement.

Comment: We feel that there should be a *de minimis* level for incinerators based on size and/or amount burned. For small incinerators, it would be cost prohibitive compared to the environmental benefit to put a scrubber on the stack. (HC)

Response: IDEM is required to adopt a state rule that is as stringent as the federal emission guidelines. The federal emission guidelines does not include a *de minimis* level for applicability. There are other options such as closing the incinerator and sending waste to a landfill, that are less costly.

Comment: Does this rule apply to crematories? (HV)

Response: Yes, it applies to commercial crematories, but the requirements are minimal notification and record keeping to document that the source is exempt from the emission limits.